

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2094.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	February 17, 2004
DATE OF REPORT:	March 12, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 20, 2004

COMPLAINT ISSUES:

Whether the Clay Community Schools violated:

511 IAC 7-27-4(a)(4) by failing to convene a case conference committee (CCC) meeting when the student withdrew from school;
511 IAC 7-23-1 by disclosing personally identifiable information without written and dated consent;
511 IAC 7-18-2 by failing to provide a free appropriate public education (FAPE) by denying the student access to school property.

FINDINGS OF FACT:

1. The Student is 18 years old and is eligible for special education and related services due to an emotional disability. In this Complaint Investigation Report, the Student is called "the Student" even though he/she was not enrolled in an early childhood program or an elementary or secondary school during the time of the events described in this Report.
2. On September 2, 2003, the Student withdrew from school. The Student was 18 years old as of the date of withdrawal.
3. When the Student withdrew, the Student had not completed high school graduation requirements and had not received a diploma. An Official Transfer Form was used to document the Student's withdrawal to pursue GED. Although the Official Transfer Form indicated that the Student was under the age of 21 and a special education student, the Student's case conference committee (CCC) was not convened in connection with the Student's withdrawal.
4. On or about January 16, 2004, the Principal informed the Student that the Student was no longer allowed on school property.
5. On January 16, 2004, the Principal spoke with the Complainant by telephone and informed the Complainant of the Principal's decision not to allow the Student on school property and the reasons for that decision.
6. On January 19, 2004, the Principal followed up with a certified letter (January 19th Letter) addressed to the Student and the Complainant. The envelope was addressed only to the Complainant and was received by the Complainant on January 24, 2004. The January 19th Letter reiterated the Principal's decision to bar the Student from school property, clarified that "school property" means the adjacent campus including the middle school and the Alternative School as well as the high school, summarized

the reasons for the Principal's decision, and addressed certain points the Student had raised regarding the proper procedure for barring an individual from school property. The text of the January 19th Letter made no reference to events that occurred while the Student was enrolled in school and included no information from the Student's educational record.

7. The January 19th Letter also included the statement, "The [] County Sheriff Department has informed me that they will charge [name] with trespassing if [he/she] continues to come on the property once [he/she] is notified." This statement referred to past conversations between school officials and the Sheriff regarding the authority of school officials, as agents of the property owner, to bar individuals from school property and the authority of the Sheriff's Department to enforce a school official's decision through the criminal trespass statute, when the individual has been asked to leave or notified orally or in writing that entry is denied. The January 19th Letter served as written confirmation of the Principal's oral notification given to the Student on or about January 16, 2004.
8. A copy of the January 19th Letter was sent to the County Sheriff. No educational records were sent to the Sheriff, either with the January 19th Letter or separately. The Sheriff and the Principal did not have a conversation or other communications regarding the Principal's decision to bar the Student from school property.
9. The parent of a friend of the Student (Friend's Parent) telephoned the Principal regarding certain consequences of the Principal's decision to bar the Student from school property. Recollections of the conversation vary. However, neither the Friend's Parent nor the Principal substantiates the allegations of the Letter of Complaint that the Principal disclosed the Student's clinical diagnosis or special education classification. It is undisputed that the Friend's Parent initiated the call and first mentioned the Student's name. Although the Principal may have alluded to a history of behavior problems in school, it is undisputed that the Principal did not disclose details of past incidents that occurred while the Student was enrolled at the high school.
10. The School did not obtain the Student's written consent for disclosure of information from the Student's educational record.
11. The January 19th Letter did not bar the Student from the location where the GED test is administered. The January 19th Letter did not bar the Student from the location where adult education classes are offered. The January 19th Letter did not bar the Student from the other high school within the same school corporation.
12. Prior to the filing of this Complaint, the School attempted to convene the Student's CCC. On February 10, 2004, the School sent a notification of a CCC meeting to be held February 17, 2004. At the request of the Student, the CCC meeting was postponed. The CCC meeting was held on March 4, 2004. Issues regarding the Student's participation in adult education classes were resolved.
13. To address the need for a CCC meeting when students with disabilities are in the process of withdrawing from school, the School has established a new procedure requiring guidance counselor(s) to notify the special education department of pending withdrawals.
14. The local director of special education and the Superintendent of the school corporation plan to conduct inservice training regarding the confidentiality requirements of 511 IAC 7-23 and the Family Educational Rights and Privacy Act (FERPA).

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that the Student's case conference committee was not convened in connection with the Student's withdrawal from school, although the effect of withdrawal was to interrupt or terminate special education services prior to the Student's graduation. Therefore, a violation of 511 IAC 7-27-4(a)(4) occurred. However, Finding of Fact #12 indicates that appropriate Student-specific corrective action has been taken, and Finding of Fact #13 indicates that appropriate systemic corrective action has been taken.
2. Findings of Fact #5, #6, #7, #8, and #9 indicate that information from the Student's educational record was not disclosed to the Complainant, to the Sheriff, or to the Friend's Parent. Notwithstanding Finding of Fact #10, written consent for disclosure was not required, as the events that occurred on or about January 16, 2004, are not a part of an educational record. Therefore, no violation of 511 IAC 7-23-1 occurred with respect to disclosure of information about the Student.
3. Findings of Fact #4 and #11 indicate that educational opportunities were available to the Student at locations from which he was not barred. Therefore, no violation of 511 IAC 7-18-2 occurred by denying the student access to the school property specified in the January 19th Letter.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.